ADES Response to the Education (Scotland) Bill

Attainment
The Committee has recently taken evidence to suggest there should be a greater emphasis on pupils’ or young people’s educational achievement, as opposed to their attainment (which is often seen in terms of qualifications or exam results). The Bill’s Policy Memorandum, in describing these provisions, uses the word ‘attainment’ on several occasions but uses ‘achievement’ only twice. The Bill itself uses neither term.

1. What improvements in attainment, in achievement and in reducing inequalities of outcome do you consider the Bill in itself could deliver? What would be a desirable level of improvement?

The Education Scotland (2000 Act) requires education authorities to ‘endeavour to secure improvement in the quality of school education’: the new Bill will specify the principle of narrowing the gap between the highest levels of attainment and the lowest, whilst still maintaining overall improvement: this is a fundamental aim for Scottish education which for the first time will be explicit in the legislative framework that governs the education system.

Clearly, the legislation of itself will not ensure improvement but will provide a clear strategic focus for councils and for government in targeting resource, planning interventions, measuring outcomes and performance, and in monitoring progress. This approach reflects current good practice in Scotland.

‘Levels of improvement’ will be determined locally and in partnerships across authorities and agencies, in areas like literacy, numeracy and health and well-being, as well as in areas like attainment within the curriculum and in SQA qualifications, and in wider achievement.

A National Improvement Framework should be introduced to support schools and authorities in the improvement journey, something ADES has advocated in our 2020 Vision.

Authorities will expect continuous improvement in attainment and achievement over the longer term rather than aiming to achieve a particular ‘desirable level’. This will fundamentally be predicated by excellent teaching and by outstanding leadership in schools.

2. The duty in the Bill is to ‘have regard to the desirability’ of ‘reducing inequalities of outcome’. Is this meaningful enough to have the desired policy effect?

This could be strengthened either in the development of the Bill or in any associated Statutory Guidance that accompanies it.
3. How should ‘inequalities of outcome’ be interpreted and should this phrase be defined in the Bill?

*Inequalities of outcome* should be taken to mean the strong correlation that currently exists between social deprivation and poverty on the one hand; and poor educational attainment on the other, such that success too often depends on where children live, unless strategic and practical steps are taken to change this.

4. What specific actions will education authorities be able to take to reduce inequalities of outcome that they are currently unable to take?

ADES does not believe that the bill is designed to give new powers to authorities: instead it will qualify their duties under the 2000 Act, to ensure that all children have improved educational outcomes, with a particular emphasis on those children and young people who traditionally have poorer attainment than their peers.

Authorities will find a National Improvement Framework with agreed approaches to the use of data locally and nationally very helpful in adding value to the work they do already. The announcement by Scottish Government of the renewed focus on attainment will help in this respect but all schools that serve communities in challenging socio economic circumstances should be able to benefit from support and advice from national agencies.

5. How do the provisions on attainment fit with existing statutory National Priorities for Education and the requirements to produce annual statements of improvement objectives and school development plans? The Bill’s Policy Memorandum uses a range of terms that do not appear in the Bill, for example:

- “promote equity of attainment for disadvantaged children”
- “narrowing the attainment gap”
- the correlation between a child’s “social deprivation/affluence and their educational attainment”.

The provisions outlined in the 2000 Act are still relevant in many respects but require to be updated in others. Accordingly we feel that the opportunity should be taken to amend the 2000 Act in relation to provisions on attainment and the new Bill should replace and supersede the National Priorities (which relate back to the 2000 Act.) Reporting arrangements also require to be amended with a preference for reporting on progress every two years as opposed to the annual report in the 2000 Act. None of these measures will preclude Councils delivering their obligations for Public Performance Reporting.

6. Do you consider that such terms are clearly defined and widely understood? Could the different terms used in the Policy Memorandum and in the Bill create any problems in delivering the policy objectives?

There is a strong argument to be made for bringing clarity, consistency and better and wider understanding of the terms variously used in the Bill, but also in the reasons for putting these matters at the heart of the policy agenda in Scotland. ADES is keen to support his process.
7. Should the Bill contain sanctions in the event that the Scottish Government or local authorities fail to achieve the policy intention of reducing inequalities of outcome? If so what sanctions would you suggest are appropriate?

The Scottish Government does not require additional powers or sanctions to enforce the policy intention of reducing inequalities. ADES does however welcome the ‘Scotland’s Attainment Challenge’ initiative which will give a focus and impetus to the policy intention.

8. Do you have any views on the consultation and reporting requirements set out in this part of the Bill?

As ADES has previously advocated, there needs to be a clear and simple national performance improvement framework whereby a few key measures (which properly reflect the detailed and complex measurement and monitoring being carried out at local levels) can be used to account for educational improvement, based on what actually works in schools, in communities and in council areas in reducing the inequalities in attainment and outcomes. As outlined above we favour moving to reporting every two years as opposed to the annual report in the 2000 Act. This will allow for more meaningful progress to be seen.

9. The Bill focuses on reducing inequalities of outcome resulting from pupils’ socio-economic disadvantage. Should all examples of inequality of outcome be addressed?

All inequality should be addressed in the education strategy of Parliament and the Scottish Government. In the Bill: however, ‘socio-economic disadvantage’ and poverty are the most obvious and prevalent examples of inequality in Scotland, and the strategies to challenge this can be used and refined to tackle other types of disadvantage eg rural deprivation. Similarly inequalities in respect of young people with Associated Support for Learning requirements are already addressed in existing statutory provisions.

Gaelic
10. How significant a change in Gaelic medium primary education will the Bill deliver? Do you agree these provisions should be limited to primary schooling?

The Bill in itself will not directly bring a change to GME but it adds to a framework that has developed for over 20 years and has seen slow but steady growth in uptake across parts of Scotland. When parents decide to place their children in GME settings most do so in the assumption that there will be a learner journey through CfE delivered in Gaelic both in Primary School and onwards to Secondary. It is not normally to the advantage of the children involved to stop GME at the end of Primary School and when Authorities are planning such provision, they should be mindful of secondary provision also.

11. What are the most appropriate ways for education authorities, particularly those with low levels of Gaelic usage, to promote and support Gaelic medium education and Gaelic learner education? What impact is this promotional work likely to have on the Gaelic language and the number of Gaelic speakers?
There are more opportunities than ever before for Authorities to respond to demands for Gaelic education but that said, there still is a significant shortage of qualified GME teachers particularly those with secondary subject qualifications. By working closely with Bòrd na Gaidhlig (BNG), liaison with Scottish Government, seeking advice from Education Scotland and using the Specific Grant opportunities that exist for Gaelic, Authorities can enhance or introduce their own provision. The Languages1+2 initiative also gives opportunities for Gaelic learners to learn Gaelic as a second or additional language. The Bill could also provide the opportunity for Local Authorities to plan strategically and collaboratively across inter authority groupings in geographic parts of Scotland to establish shared GME provisions. If these good practice examples are followed then an improved framework for increasing the numbers of Gaelic speakers will be in place. The biggest obstacle to GME expansion however is the small qualified teacher workforce.

12. Do you agree that the Bill “will establish a clear process for authorities to follow in considering parental requests for an assessment of the need for Gaelic medium primary education”? Do you agree with the thresholds proposed in the Bill in relation to the assessment of parental requests?

*It is important that parental requests for GME are treated in a consistent manner across Scotland where due process should be followed albeit different outcomes may ensue. There are good practice examples that are already in place which can be built on and used across Scotland. Specific thresholds to be followed across the country where local circumstances will vary enormously are not something to be advised. A threshold applied in an urban area for example may not be appropriate in a rural situation.*

13. Under existing legislation, education authorities must have regard to Bord na Gaidhlig’s education guidance when they are producing their annual statement of improvement objectives. What will the requirement in this bill add to this?

*There requires to be clarity and consistency of expectation of education authorities in relation to GME and Gaelic Education generally. The Bòrd should work closely with authorities to seek the most appropriate mechanisms to marry their statutory duties with the Bill provisions. This could be addressed by well crafted Statutory Guidance and new consultative measures between BNG and authorities.*

14. Overall, to what extent will the Bill help to deliver the Scottish Government’s commitments to grow and strengthen Gaelic education?

*The Bill will be an important part of a national framework for Gaelic Education as will any Statutory Guidance that accompanies it. However the two main priorities will remain : teacher supply and a secondary GME curriculum which has specialist GME subject provision.*

An action plan for the former exists but the latter needs urgent action with digital learning links. The opportunities to develop Gaelic as an additional language alongside Gaelic cultural opportunities as part of CfE should also be part of such a commitment.
15. What potential impact on other educational services might arise from the local authority having to implement these new duties?

*With resource challenges any new burden can place pressure on reducing numbers of staff. However the availability of Specific Grant for Gaelic does help mitigate this partially.*

**Additional Support for Learning**

16. What will be the outcomes of extending rights under the Education (Additional Support for Learning) (Scotland) Act 2004 to children aged 12 and over with capacity? Please give practical examples.

*ADES agrees with the principles of these proposals which will benefit children and young people, particularly looked after children. It should help children exercise their rights.*

17. Do you agree with the proposal that not all of the rights in the ASL legislation should be extended to children (see paragraphs 49 and 50 of the policy memorandum)?

*Yes.*

18. What are your views on the statutory children's support service proposed by the Scottish Government?

*We are in agreement with this proposal but care needs to be taken to ensure that any associated costs are not diverted from existing services.*

**Chief Education Officer**

19. What would be the possible advantages and disadvantages of legislating for the role of Chief Education Officer (CEO) in every education authority in Scotland? Are there any previous examples of the Scottish Government seeking to instruct local authorities to employ a person in a particular role? If so, are there any lessons to be learned from how this worked?

*Councils across Scotland discharge the duty of the education authority as defined in a suite of complex legislation which covers a wide spectrum of their responsibilities. Education is the largest of the services provided by Councils with the largest share of the overall Council budget. Until the Conservative Government removed the statutory post, all Councils had such a named official and it is recognised that for a large part of the period of the Unitary Authorities very little difference was seen as a consequence. However legislation has increased in fields such as ASN, school closures and school improvement including the proposals in this Bill. Alongside this we are in a period of rapidly shrinking senior work forces and some Authorities do not have an experienced and qualified educationalist in their senior teams to advise the education authority. With this in mind we feel such a post holder is essential to advise Councils, ensure Statutory duties are met, meet Governmental and Parliamentary expectations, and be a formal point of contact for external agencies and parental groupings. There is good practice to draw on in Scotland from the post of Chief Social Work Officer and in fact we envisage both post holders working closely in a Council. There is also the example of the post of section 95 Finance Officer in Local Authorities.*
20. What roles could a CEO most usefully perform and to what extent are such roles already carried out within education authorities?

As examples of the roles we envisage:

- to advise the education authority on matters relating to its statutory responsibilities in the 1980 Act, its successor Acts, the 2000 Standards in Scotland’s Schools Act;
- to ensure that the Education Authority discharges its functions in relation to ASN and the needs of children with additional support needs;
- to ensure the Education Authority discharges its functions in relation to Gaelic Education;
- to ensure that the Education Authority and its schools has effective systems in place to evaluate school quality, follow through HMIe inspections, and raise standards of attainment;
- to ensure that there is an effective policy of Devolved School Management in place;
- to ensure the education authority has an effective policy for teacher and HT recruitment;
- to ensure that the education authority has appropriate mechanisms in place to meet GTCS requirements for teacher registration and their (required) professional update;
- to ensure that there is an effective system in place for parental engagement;
- to ensure that there is effective systems in place for school estate planning including the administration of changes or closures of school provisions.

( this list is not exhaustive )

While these functions are currently being delivered across most authorities, the ability of Councils to discharge these in the future, we feel, is very mixed, given the circumstances described in para 19 above. We see the introduction of a statutory post as necessary as part of assuring future quality, consistency and local delivery of the education system in Scotland.

Registering Teaching Staff

21. How would grant-aided schools, independent schools and their pupils benefit from their teaching staff being registered with the General Teaching Council for Scotland? What different or new skills would such teaching staff acquire as a result of registration? Is it likely that attainment would improve in the schools in question?

The Bill’s Financial Memorandum states:

“There may also be financial consequences for the smaller special schools within the independent sector who may find it a challenge to attract GTCS registered teachers and this may affect the school’s ability to continue to operate. The risk should be mitigated by the proposed transitional arrangements which will allow schools sufficient time to plan for full implementation. Discussions are yet to be had with the GTCS and the sector but there is an expectation that all teachers will be GTCS registered within 2 years of introduction at the latest.”

Scotland has a long and proud tradition of a qualified teaching workforce in education authority schools. We support this extension into the independent sector and assume that the GTCS and the representatives of Independent Schools would work
collaboratively to devise appropriate registration approaches over a period of time. Such approaches could take into consideration the needs of specialist independent schools.

22. What transitional arrangements would be appropriate, particularly to avoid the risk of smaller special schools being unable to operate?

*We support transitional arrangements on the grounds of stability for learners.*

**Complaints**

23. The Bill will introduce a power to make regulations about the procedure to be followed in relation to complaints to Scottish Ministers. Paragraph 74 of the Policy Memorandum sets out some proposed deadlines. What is your view on the deadlines for these procedures?

*We are satisfied with the deadlines outlined in the Bill and that there is a need for clarity on these matters.*

24. The policy intention is that Scottish Ministers should not consider an issue or reconsider a decision which should be dealt with by the Additional Support Needs Tribunals for Scotland (ASNTS). Do you agree with this proposal and will it always be clear cut when a complaint is solely for (ASNTS)?

*We agree that Scottish Ministers should not be involved in such processes and that the Tribunal proposal is far better placed to deal with such instances.*

25. Overall, how will the Scottish Government's proposals affect parents' ability to complain about the actions of an education authority or relevant body? Will the new system be more effective? Is it clear which matters can and cannot be the grounds of a complaint to Scottish Ministers?

*The new proposals bring clarity for parents and other parties involved in such processes. We do not see this inhibiting parents rights or opportunities for complaints.*

**Learning and Childcare**

The Scottish Government is seeking to amend section 47(3) of the Children and Young People (Scotland) Act 2014 as it currently unintentionally excludes a small group of children from the early learning and childcare provisions.

26. Are there any reasons to distinguish between guardians and kinship carers for the purposes of entitlement to free early learning and childcare?

*There are no reasons in principle for distinguishing between guardians and kinship carers in this context.*
Other Issues
Please provide any other information you think would be relevant to the Committee’s scrutiny. For example, it is helpful to have your views on whether:

- the Bill, or parts of it, will deliver the Scottish Government’s policy objectives;
- legislation is needed to deliver some or all of the Scottish Government’s policy intentions;
- the consultation undertaken on the Bill was adequate

In general, ADES believes that it is preferable to implement educational policy (which is inevitably subject to revision and change) through executive, management and other processes rather than via legislation which should be used to specify the statutory obligations on education authorities and on their governance.

A.D.E.S
(Association of Directors of Education in Scotland)
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